

## **R E M A R K S**

Claims 1 - 36 were pending in the present application. Upon entry of this amendment which is respectfully requested for the reasons set forth below, Claims 1 - 38 will remain pending, and claims 1 - 3, 5 - 7, 15 - 24 and 27 - 32 will be amended.

Applicants thank the Examiner for the courtesy extended to Applicants representative during the interview of July 12, 2000.

### **Specification Amendments**

The Specification of the present application has been amended to insert the serial numbers of the co-pending applications, as requested by the Examiner.

### **Section 102 Rejections**

Claims 1 - 3, 5 - 7, 15 - 18 stand rejected as anticipated by U.S. Patent No. 5,408,210 to Oka. Applicants respectfully traverse the Examiner's Section 102 rejection.

Oka describes a system in which a customer number counter counts the number of customers who are waiting in front of an electronic cash register. A lamp "is turned on and off to inform customers of the crowdedness" of the electronic cash register. This system is intended to allow a customer to choose the electronic cash register with the smallest number of customers waiting for transactions.

Independent claims 1, 5, 15 - 19, 21, 23, 24, 27 and 30 have been amended to generally recite that a product offer is provided. Oka neither hints nor suggests the provision of product offers, much less based on an activity rate or a criterion, as is recited in independent claims 1, 5, and 15 - 24.

Accordingly, independent claims 1, 5, and 15 - 18 and claims 2 - 4 and 6 - 8 which are dependent thereon should be allowable and the rejection withdrawn.

### **Section 103(a) Rejections**

Claims 4, 8, 19- 24, and 27 - 32 are rejected as being unpatentable over Oka. Applicants respectfully traverse the Examiner's Section 103(a) rejection.

#### **1. Section 103(a) Rejections of Claim 4 and 8**

With respect to claims 4 and 8, the Oka system is intended to allow a customer to choose the electronic cash register with the smallest number of customers waiting for transactions. The time of day could not help a customer choose any cash register with the smallest number of customers waiting for transactions. Thus, determining a predetermined threshold in dependence on a signal indicative of time of day would not improve the Oka system.

However, such a determination is useful in some embodiments of the present invention. For example, a supplementary process may be performed if the activity rate of a POS terminal is less than a threshold, and the threshold is based on the time of day. Thus, at different times of day, different activity rates will be "low enough" to permit performance of the supplementary process (or "high enough" to bar performance of the supplementary process).

See Specification, page 6, lines 29 to page 7, line 12. Accordingly, there is no motivation to modify claims 4 and 8 in the manner proposed by the Examiner.

Further, the rejection is deemed moot in light of the amendments to independent claims 1 and 5, discussed above.

Accordingly, claims 4 and 8 should be allowable and the rejection withdrawn.

## **2. Section 103(a) Rejections of Claim 19 - 24**

With respect to claims 19 - 24, the rejection is deemed moot in light of the amendments to independent claims 19 - 24, discussed above.

Accordingly, claims 19 - 24 should be allowable and the rejection withdrawn.

## **3. Section 103(a) Rejections of Claim 27 - 32**

With respect to claims 27 - 32, the rejection is deemed moot in light of the amendments to independent claims 27 - 32, discussed above.

Accordingly, claims 27 - 32 should be allowable and the rejection withdrawn.

## **Newly Added Claims 37 and 38**

Newly added Claims 37 and 38 distinguish over the references cited by the Examiner, alone or in combination. Applicants note that newly added claims 37 and 38 are similar to allowed claims 25 and 26.

### Conclusion

For the foregoing reasons it is submitted that all of the claims are now in condition for allowance and the Examiner's early re-examination and reconsideration are respectfully requested.

Alternatively, if there remains any question regarding the present application or any of the cited references, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is cordially requested to contact Dean Alderucci at telephone number 203-461-7337 or via electronic mail at Alderucci@WalkerDigital.com.

### Petition for Extension of Time to Respond

Applicants hereby petition for a one-month extension of time with which to respond to the Office Action. Please charge \$110.00 for this petition to our Deposit Account No. 50-0271. Please charge any additional fees that may be required for this Response, or credit any overpayment to Deposit Account No. 50-0271.

If an extension of time is required, or if an additional extension of time is required in addition to that requested in a petition for an extension of time, please grant a petition for that extension of time which is required to make this Response timely, and please charge any fee for such extension to Deposit Account No. 50-0271. A duplicate copy of this page is attached for such purpose

Respectfully submitted,



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